

REMARKS

Applicant respectfully requests the Examiner's reconsideration of the present application. No claims have been cancelled. No claims have been amended. No new claims have been added. Therefore, claims 1-5, 7, 9-12, 25-28 and 30-33 are presented for examination.

Rejections Under 35 U.S.C. §103(a)

McArthur in view of Terry

Claims 1-5, 7, 9-12, 25-28, 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McArthur, U.S. Patent No. 5,805,806 ("McArthur") in view of Terry et al., U.S. Patent No. 5,499,047 ("Terry"). Applicant respectfully submits that the present claims are patentable over the combination of McArthur and Terry.

McArthur discloses a LAN supporting baseband digital signals and video. McArthur discloses that cable television services generally occupy a range of frequencies from 50 to 800 MHz, and that the range of frequencies from 0 to 50 MHz is used for the local baseband (unmodulated) digital network. Low-pass filters extract the baseband digital signals so that only frequencies from 0 to 50 MHz pass, thereby isolating the LAN transceiver from cable television and local video signals.

Terry discloses a conventional cable television distribution network which is supplemented with an additional bi-directional transmission capability. Fiber termination units (FTUs) serve to supply to the coaxial cable with digital signals at frequencies above those of the analog television signals already carried by the cable. (Terry, col. 4, ll. 47-54). Additionally, the Terry discloses that control signals and possibly other data are carried in a QPSK (quadrature phase shift keyed) channel providing an upstream bit rate of 300 Mb/s in a frequency range from 1150 to 1350 MHz.

Independent claims 1, 25 and 28, as amended, include the limitation of a carrier modulated digital signal having a signal operating frequency greater than 950 MHz. The Examiner has admitted that McArthur does not teach or suggest this limitation. However, the Examiner has asserted that it would have been obvious to modify McArthur to utilize Terry's higher operating frequency to expand bandwidth of the cable.

Applicant respectfully submits that there is no suggestion or motivation to combine McArthur with Terry as proposed by the Examiner. Applicant submits that the proposed combination of McArthur with Terry would render McArthur unsatisfactory for its intended purpose. "If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." (MPEP 2143.01, citing *In re Gordon*, 733 F.2d 900, 221 USPQ1125 (Fed. Cir. 1984)).

The combination of McArthur's teaching that "low-pass filters extract the baseband digital signals," with Terry's teaching of "digital signals at frequencies above those of the analog television signals already carried by the cable," would render McArthur unsatisfactory for its intended purpose of using the "range of frequencies from 0 to 50 MHz...for a local baseband (unmodulated) digital network." Additionally, the low-pass filters taught by McArthur would filter out the high frequency digital signals (e.g. 1150 to 1350 MHz) taught by Terry. Therefore, Applicant submits that there is no suggestion or motivation to combine the teachings of McArthur with those of Terry.

Accordingly, it is respectfully submitted that independent claims 1, 25 and 28, and claims 2-5, 7, 9-12, 26-27 and 30-33 that depend from them, are patentable over the combination of McArthur and Terry for at least the reasons discussed above. Therefore, Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

Williams, Jr. in view of Terry

Claims 1-5, 7, 9-12, 25, 27-28, 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams, Jr., U.S. Patent No. 6,202,211 ("Williams") in view of Terry. Applicant respectfully submits that the present claims are patentable over the combination of Williams and Terry.

Williams discloses providing television video signals to multiple televisions on a coaxial cable based network. A server communicates control and status information with clients on the network using a separate video channel, called the "network channel." The video channels assigned to individual client systems and the network

channel are standard cable TV channels, the content of which has been removed by a programmable channel filter. The programmable channel filter transmits all cable TV signals input to the home onto the coaxial cable bus except those on the designated network channel and channels assigned to the client systems. The channel filter also prevents signals generated locally within the network from leaving the network. (Williams, col. 6, line 60- col. 7, line 55; Figure 5).

Independent claims 1, 25 and 28, as amended, include the limitation of a carrier modulated digital signal having a signal operating frequency greater than 950 MHz. The Examiner has admitted that Williams does not teach or suggest this limitation. However, the Examiner has asserted that it would have been obvious to modify Williams to utilize Terry's higher operating frequency to expand bandwidth of the cable. Applicant respectfully submits that there is no suggestion or motivation to combine Williams with Terry as proposed by the Examiner, since the proposed combination of Williams with Terry would render McArthur unsatisfactory for its intended purpose. (MPEP 2143.01).

The combination of Williams' disclosure that the network channel and client video channels are standard cable TV channels with Terry's use of "digital signals at frequencies above those of the analog television signals already carried by the cable," would render Williams unsatisfactory for its intended purpose of using frequencies occupied by existing TV channels on the coaxial cable network. Additionally, the modulators within the server 20 for modulating the output of the network controller 105 onto the network channel would be rendered inoperable, since the modulator is designed to modulate over standard TV channels, not frequencies greater than 950 MHz. Furthermore, such a combination would change the principle of operation of Williams, and therefore the teachings of the references are not sufficient to render the claims *prima facie* obvious. (MPEP 2143.01). Therefore, Applicant submits that there is no suggestion or motivation to combine the teachings of Williams with those of Terry.

Accordingly, it is respectfully submitted that independent claims 1, 25 and 28, and claims 2-5, 7, 9-12, 27 and 30-33 that depend from them, are patentable over the combination of Williams and Terry for at least the reasons discussed above. Therefore,

Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

Conclusion

Applicant respectfully submits that in view of the discussion set forth herein, the applicable rejections have been overcome and the pending claims are in condition for allowance.


If the Examiner determines the prompt allowance of the claims could be facilitated by a telephone conference, the Examiner is invited to contact Scott Heilesen at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

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